

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Bell Telephone Company	:	
(SBC Illinois) and XO	:	
Communications Services, Inc.	:	
	:	
	:	05-0354
Joint Petition for Approval of	:	
Eleventh Amendment to the	:	
Interconnection Agreement dated	:	
April 18, 2005 Pursuant to 47 U.S.C.	:	
§252.	:	

ORDER

By the Commission:

I. PROCEDURAL HISTORY

On June 9, 2005, Illinois Bell Telephone Company (SBC Illinois) ("SBC") and XO Communications Services, Inc. ("XO") (SBC and XO are referred to collectively as "Petitioners") filed with the Illinois Commerce Commission ("Commission") a verified joint petition seeking the Commission's approval of an amendment to their negotiated interconnection agreement ("Amendment"), pursuant to Sections 252(a)(1) and 252(e) of the Federal Telecommunications Act of 1996 ("TA96"), 47 U.S.C. 151 et seq. The Amendment was filed with the joint petition along with the statement of Eddie A. Reed, Jr., Director-Contract Management for Southwestern Bell Telephone, L.P./Illinois Bell Telephone Company (SBC Illinois), in support of the Amendment.

Pursuant to due notice, this matter came on for hearing before a duly authorized Administrative Law Judge of the Commission at its offices in Springfield, Illinois on July 26, 2005. Appearances were entered by counsel on behalf of SBC, XO Communications and Commission Staff ("Staff"). The Verified Statement of Torsten Clausen, a Policy Analyst in the Commission's Telecommunications Division, was admitted into the record as Staff Exhibit 1. In the Verified Statement, Mr. Clausen recommended approval of the Amendment. The record was marked "Heard and Taken" on July 26, 2005. No petitions to intervene were received.

II. SECTION 252 OF TA96

Section 252(a)(1) of TA96 allows parties to enter into negotiated agreements regarding requests for interconnection, services, or network elements pursuant to Section 251. Section 252(a) of TA96 provides, in part, that "[a]ny interconnection agreement

adopted by negotiation . . . shall be submitted for approval to the State commission.” Section 252(e)(1) provides that a state commission to which such an agreement is submitted “shall approve or reject the agreement, with written findings as to any deficiencies.” Section 252(e)(2) provides that the state commission may only reject the negotiated agreement if it finds that “the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement” or that “the implementation of such agreement (or portion thereof) is not consistent with the public interest, convenience, and necessity.”

Section 252(e)(4) provides that the agreement shall be deemed approved if the state commission fails to act within 90 days after submission by the parties. This provision further states that “[n]o State court shall have jurisdiction to review the action of a State commission in approving or rejecting an agreement under this section.” Section 252(e)(5) provides for preemption by the Federal Communications Commission if a state commission fails to carry out its responsibility and Section 252(e)(6) provides that any party aggrieved by a state commission’s determination on a negotiated agreement may bring an action in an appropriate Federal district court.

Section 252(h) requires a state commission to make a copy of each agreement approved under subsection (e) “available for public inspection and copying within 10 days after the agreement or statement is approved.” Section 252(i) requires a local exchange carrier to “make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement.”

III. THE AMENDMENT

According to the joint petition, the amendment to the interconnection agreement between SBC and XO was arrived at through good faith negotiations and shall be in effect until December 31, 2005, after which time the Amendment shall continue in force and effect unless cancelled by either party on at least 30 days notice. The amendment extends the term of the settlement amendment to the parties interconnection agreement which had expired on December 31, 2004. The amendment covers a broad range of interconnection provisions, including compensation, trunking, points of interconnection and change-of-law terms.

IV. POSITION OF STAFF AND COMMISSION CONCLUSION

Staff reviewed the amendment in light of the criteria contained in Section 252(e)(2)(A) of TA96. Under this section, the Commission may only reject an agreement, or a portion thereof, adopted by negotiation under subsection (a) if it finds that (i) the agreement, or a portion thereof, discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement, or a portion thereof, is not consistent with the public interest, convenience, and necessity. Staff concluded that

the amendment does not discriminate against a telecommunications carrier not a party to the Agreement and that the implementation of the amendment would be consistent with the public interest, convenience, and necessity. The Commission concurs with Staff's position.

Concerning the implementation of the amendment, Staff recommends that the Commission require SBC to, within five days from the date the amendment is approved, modify its tariff to reference the amendment for each service. Staff states that this requirement is consistent with the Commission's orders in previous negotiated agreement dockets and allows interested parties access to the Amendment. Staff recommends that such reference be included in the following section of SBC tariffs: Agreements with Telecommunications Carriers (ICC No.16, Section 18). The Commission concludes that these Staff recommendations regarding implementation of the Amendment are reasonable and should be adopted. In addition, Staff recommends that the Commission require SBC to file a verified statement with the Chief Clerk of the Commission, within five days of approval by the Commission, that the approved Agreement is the same as the Agreement filed in this docket with the verified petition. The Commission will adopt this recommendation and will require SBC to file the verified statement within five days of approval by the Commission. The Commission concurs with Staff's recommendation that the Chief Clerk should place the Agreement on the Commission's web site under "Interconnection Agreements."

V. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein, is of the opinion and finds that:

- (1) SBC and XO are telecommunications carriers as defined in Section 13-202 of the Public Utilities Act ("Act"), 220 ILCS 5/1-101 et seq., which provide telecommunications services to customers in Illinois;
- (2) the Commission has jurisdiction over the parties hereto and the subject matter hereof;
- (3) the facts recited and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and law;
- (4) the Agreement does not discriminate against a telecommunications carrier not a party to the Agreement and is not contrary to the public interest, convenience, and necessity;
- (5) in order to assure that the implementation of the Agreement is in the public interest, SBC should implement the Agreement, by filing with the Chief Clerk of the Commission within five days of approval a verified statement that the approved agreement is the same as the agreement filed with the verified

petition; the Chief Clerk should place the Agreement on the Commission's web site under "Interconnection Agreements;"

- (6) within five days of the entry of this Order, SBC should modify its tariff to reference the Agreement, in the manner recommended by Staff and described in the prefatory portion of this Order above;
- (7) the Agreement, should be approved as hereinafter set forth;
- (8) approval of this Agreement does not have any precedential affect on any future negotiated agreements or Commission Orders.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Amendment to the interconnection agreement, between Illinois Bell Telephone Company (SBC Illinois) and XO Communications Services, Inc. is approved pursuant to Section 252(e) of the Telecommunications Act of 1996.

IT IS FURTHER ORDERED that Illinois Bell Telephone Company (SBC Illinois) shall comply with Findings (5) and (6) hereinabove within five days of the date of this Order.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 17th day of August, 2005.

(SIGNED) EDWARD C. HURLEY

Chairman